

# TRUSTEES FOR ALASKA

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December 23, 2008

Via Email

Randy Bates, Director  
Department of Natural Resources  
Division of Coastal and Ocean Management  
302 Gold Street, Suite 202  
Juneau, AK 99811

RE: Comments regarding the proposed statutory and regulatory changes to the Alaska Coastal Management Program

Dear Mr. Bates:

These comments regarding the proposed statutory and regulatory changes to the Alaska Coastal Management Program ("ACMP") are submitted on behalf of the Alaska Wilderness League, Cook Inletkeeper, Lynn Canal Conservation, Prince William Soundkeeper, Resurrection Bay Conservation Alliance, and Southeast Alaska Conservation Council. Our participation in this re-evaluation process was based on the good faith belief that the Department of Natural Resources ("DNR") was committed to creating a coastal management program that not only protects sensitive coastal ecosystems from unplanned and unnecessary development, but also safeguards coastal resources that the citizens of this state are so dependent on. While we were hopeful that our efforts, along with those of interested stakeholders, would bring positive change and advance the objectives of the Coastal Zone Management Act ("CZMA"), it is now evident, based on the proposed program, that DNR's proposal is incapable of achieving such a goal.

When it enacted the CZMA, Congress concluded that there is "a national interest in the effective management, beneficial use, development and protection of the coastal zone." 16 U.S.C. § 1451(a). In making that finding, Congress recognized that the competing demands and increasing pressure from economic development, population growth, energy needs, industrial activities, and global warming, among other concerns, pose a threat to important ecological, cultural, historic, and esthetic values of the coastal zone. *Id.* at § 1451(c), (e). But while Congress created the CZMA, it recognized that to implement a coastal zone management program it would need to be done at the state and local level where coastal resource protection and compatible development would be a priority. Accordingly, all coastal management programs are encouraged to protect the coastal zone and "achieve wise use of the land and water resources ... giving full consideration to ecological, cultural, historic and esthetic values as well as the needs for compatible economic development." *Id.* at § 1452(2).

While the ACMP that Alaska instituted in 1977 had many weaknesses, it was made far worse when it was subsequently gutted by the Murkowski Administration in 2003. Those 2003

changes transformed the ACMP into a program ill-equipped to protect and manage Alaska's vast coastal zone. While discouraging to coastal districts and the public who attempted to work within the confines of the 2003 program, this re-evaluation process reinstated some hope that the Palin Administration would again recognize the value of coastal ecosystems, and together with interested stakeholders, develop a comprehensive program to restore the protective capacity of the ACMP.

However, despite the guise of an open, honest, and transparent process, it is clear now that DNR never really intended to improve the program or incorporate meaningful input from the stakeholders who actively participated in the re-evaluation. Aside from the removal of the DEC carve-out, DNR ignored the vast majority of stakeholder comments. Whether DNR's proposed statutory and regulatory scheme is a product of the rushed timeline, inadequate resources, or an unwillingness to implement a more comprehensive coastal program, DNR now proposes an ACMP that is even less protective of coastal ecosystems than the ill-equipped current program and one that appears to even further restrict the ability of coastal districts to write local enforceable policies.

In recent stakeholder meetings, DNR claimed that constitutional issues have prevented it from creating a more inclusive coastal management program. Constitutional issues, however, can be avoided by thoughtfully drafting statutory language. While this takes more effort, the end result is a statute that sets forth clear standards in the legislation for the agency to follow, deals with issues relating to potential conflicts of law, and one that can actually be implemented. In this case, the piece-meal approach taken by DNR only adds to more confusion.

It is tremendously unfortunate that this opportunity was squandered when so many diverse interests were striving for a common goal. Nowhere are the threats to coastal environments, fish, wildlife, and the subsistence way of life more pervasive than along the expansive coastline of Alaska. As our coastlines are already affected by some of the early impacts associated with global warming, now would be the time for the State of Alaska to take a leadership role and protect the coastal ecosystems, resources, and communities that are threatened.

During the ACMP re-evaluation process, DNR stated that it would consider comments, but that it retains decision-making authority and the proposed bill would reflect the agency's determination. In effect, the proposal sends the message that DNR will continue to ignore the interests of coastal districts and the public, in the same way, that it has ignored those interests over the last several years while implementing the current program. If the Palin Administration wishes to create a different legacy and establish a legitimate and effective ACMP, we strongly recommend that it reconsider introducing this proposal in the next legislative session. We urge DNR to extend the re-evaluation timeframe and develop a program that restores the protective capacity of the ACMP.

Sincerely,



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